

From: Bill Nicholls
To: Microsoft ATR
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Subject: Comments on MS Antitrust Proposed Settlement

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To whom it may concern:

I am an Information Technology practitioner with more than 37 years of experience. I am writing to object to the totally inadequate proposed settlement with Microsoft.

I have watched and experienced Microsoft's aggressive and illegal practices since 1987. They have repeatedly injured me by using their monopoly to pressure and harass other software vendors with better products out of business.

The first of these that I personally experienced was Desqview, an excellent product well ahead of Microsoft's early Windows. Microsoft repeatedly made changes to shipping versions of Windows that caused Desqview to crash. Over time, most people gave up on Desqview because even though fixes to Desqview were available, back in those days, they were slow and difficult to get.

I won't go into all the different tricks they used unless you want to see my full listing of direct and indirect injuries. The failure of adequate corrective actions with the first antitrust suit against Microsoft led predictably to the current situation.

To call the current proposed settlement a sellout or inadequate simply reflects the limits of my language skills to describe the situation politely. If applied, these limited actions will actually help Microsoft by enabling them legal protection from needing to divulge anything related to security. Anything could be easily interpreted by MS to include just about every product they make.

This may not be the worst of it. The billion dollar compensation that enables MS to step heavily into an area they don't have a majority in (schools) is wrong both on that basis, and because it is based on the list

price of MS software, whose real cost is minuscule to them.

The gagged monitors is another useless step. It is more than useless because it gives the appearance of monitoring without the substance.

In fact this whole proposed settlement is form without substance. If the only action the monitors can really take is to institute another (useless) lawsuit, then you shouldn't bother.

What then is really required?

Meaningful reform for MS practices will not be trivial to implement. It needs to deal with certain existing and emerging problems:

- * Open up file formats to competitors at least six months in advance of delivery to customers.

- * Insure that MS uses only documented API calls. Their use of undocumented calls creates a huge advantage over competitors.

- * Insure that MS may not unilaterally implement modified public standards such as are found in the World Wide Web consortium. If they want changes, they must work through the standards group and have them published.

- * Standardize the volume discounts for a specific volumes irrespective of customer.

- * Forbid the practice of bundling free software, such as Internet Explorer, into the operating system. Internet Explorer was developed at large expense, illegally subsidized by their OS monopoly. It was sold below cost in order to kill Netscape, with the ultimate objective of altering the Internet's operation to impose another monopoly.

- * Forbid the practice of increasing prices to preload companies if they want to unbundle MS products.

- * Free up the initial boot desktop setup completely.

- * Insist that Passport be open to authentication *and* authorization.

There are probably other remedies that are needed, including an independent arbitration board knowledgeable in the IT business to resolve disputes between third party developers and Microsoft. I would be willing to serve on such a board.

The settlement that this court develops with Microsoft will determine to a great extent whether the future of computing is diverse and energetic, or moribund and monopolistic. Microsoft now has more power to dictate the direction and future of IT than IBM ever did when they were "IBM and the seven dwarves." I worked then for IBM's competitors, and I can say from experience that Microsoft is a much greater threat.

Please keep in mind that Microsoft has \$36 Billion in cash reserves. A lot of that money was earned through the fruits of their monopoly extensions in office suites, internet programs and abuse of their restrictive preload agreements. Any fine applied to MS should make enough of a dent in their cash reserve that they are not ever tempted to risk that again.

Sincerely,

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